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FISCAL IMPACT STATEMENT

LS 7344

BILL NUMBER: SB 335

NOTE PREPARED: Apr 4, 2007

BILL AMENDED: Apr 3, 2007

SUBJECT: Professions and Occupations.

FIRST AUTHOR: Sen. Riegsecker

FIRST SPONSOR: Rep. Welch

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following health and professional licensing provisions:

Personal Services Agency Licensing- The bill specifies the information that must be provided in an application for a personal services agency license, indicates when the State Department of Health (ISDH) may conduct an onsite inspection before issuing a license, and requires a determination on an application within 60 days. The bill specifies the requirements for renewing a license. The bill also authorizes the Attorney General to bring a civil action to enjoin unlicensed conduct.

The bill establishes criteria when a nursing home is not required to provide cardiopulmonary resuscitation **or other intervention on a patient who has died.**

Continuing Education Civil Penalties- A holder of a license, registration, or certificate may be subject to civil penalties if the holder does not comply with continuing education requirements for reinstatement of a license.

Investigation of Application- The Professional Licensing Agency may delay reinstating a license, certificate, or registration for 90 days to investigate an applicant.

Disciplinary Sanctions- A holder of a license, registration, or certificate is subject to disciplinary sanctions if a board finds the holder engages in abusive or fraudulent billing practices or is convicted of a crime that is harmful to the public.

Suspension of License- The Real Estate Appraisers Licensure and Certification Board may summarily suspend the license of a real estate appraiser under certain circumstances.

Referral Before Acupuncture Treatment by Acupuncturist- The bill requires that an acupuncturist must receive a written referral, diagnosis, or documentation of the patient's condition before performing acupuncture.

Beauty Culture Instructor License- An individual may obtain a beauty culture instructor license and instruct in areas of beauty culture in which the individual holds a license;

*Physician Assistants-*A physician assistant's certificate is placed on inactive status if the physician assistant does not practice under a supervising physician.

Tanning Facilities- The bill provides for reinstatement of a tanning facility license.

Semiprofessional Elimination Contests- The bill removes semiprofessional elimination contests from the boxing and sparring laws.

Continuing Education of Land Surveyors- The bill removes a provision that requires certain organizations to supply information concerning continuing education of land surveyors.

CPA's- The bill allows an individual who holds a valid CPA certificate from any state to perform quality reviews;

Mobile Salons- The bill allows the State Board of Cosmetology Examiners to establish standards for mobile salons.

Speech-Language Pathology Licensing- The bill allows individuals who meet certain requirements to obtain a license in speech-language pathology.

Duplicate Fees- The bill changes the fee for issuance of a duplicate license, registration, or certificate from \$10 to \$25.

Limit of Course Work Hours- The bill changes the limitation on hours of course work for students in barber school or cosmetology school from eight to ten hours per day.

Interstate Nurse Licensure Compact- The bill establishes the interstate nurse licensure compact (the compact). The bill provides that the State Board of Nursing may issue by endorsement a license to practice as a registered nurse if the applicant completes the Canadian Registered Nurse Examination.

Impaired Nurses Account- The bill requires part of the examination and registration fees collected by the State Board of Nursing to be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses. The bill establishes the amount of fees to be deposited in the Impaired Nurses Account.

Marriage and Family Therapists Clinical Experience- The bill changes the clinical experience required for marriage and family therapist from three to two years.

Marriage and Family Therapist Associate License- The bill establishes a marriage and family therapist associate license.

Music Instruction Within Single Family Residence- The bill provides that a zoning ordinance must allow one

or more occupants of a single family residence to engage in a home occupation of providing instruction in music.

Repealers- The bill repeals provisions concerning: (1) requiring a person to complete a cosmetology school program again if the person fails the examination by the State Board of Cosmetology Examiners; (2) esthetics and electrology instructors licenses, which are replaced with the beauty culture instructor license; (3) inactive cosmetology professional's licenses; and (4) the transfer the rights, powers, and duties of the State Board of Examination and Registration of Nurses.

Effective Date: July 1, 2007.

Explanation of State Expenditures: (Revised) *Personal Services Agency Licensure-* This provision would codify elements of a licensure program for personal services agencies. These agencies were authorized to be licensed by the General Assembly in P.L. 212-2005 (HEA 1098-2005). The Department of Health reported that rules were promulgated to implement the licensure program for personal services agencies as required by the Act but the rules were not approved for adoption by the State Budget Agency which cited the lack of funding available for the implementation of the program. To date this licensure program has not been implemented.

Various Licensing Provisions: The other licensing provisions of the bill would not affect Professional Licensing Agency (PLA) staffing levels. The professional licensing provisions would be able to be carried out within the PLA's existing level of resources. The following paragraphs provide more detailed explanation of certain provisions within the bill.

Background- Personal Services Agency Licensure: The number of personal services agencies that would require licensure has been estimated at about 250 entities. The Department of Health estimated that they might need up to four additional surveyors and one secretary to implement P.L.212-2005. It was assumed that these surveyors would be supervised by the existing supervisory staff of the Home Health Care Licensure unit. The total estimated first year costs were \$344,595. The Department reverted \$2,912,557 to the General Fund in FY 2006.

Background- ISDH Appropriation: The ISDH administrative appropriations were made from the dedicated Tobacco Master Settlement Agreement Fund for FY 2006 and FY 2007. The funding source of the FY 2008 and FY 2009 ISDH administrative appropriations will be determined by the General Assembly.

Suspension of License- The bill would require the Attorney General's Consumer Protection Division to attempt to notify, by fax or phone, a real estate appraiser of a hearing by the Real Estate Appraisers Licensure and Certification Board on the potential suspension of the license of the appraiser contacted. The Attorney General's office should be able to accomplish this provision within their existing level of resources.

As of September 5, 2006, the Attorney General had 344 total employees. Of that total, 289 were full-time, 38 intermittent, 10 temporary, and 7 were on leave. The Attorney General's General Fund appropriation is \$21.4 M for FY 2007.

Beauty Culture Instructor License- This provision would combine all current instructor licenses into one instructor license. This provision could save the PLA administrative time by reducing the types of instructor licenses processed to one. As of December 2006, there were 960 cosmetology, 68 esthetics, and 3 electrology active instructors licenses.

Mobile Salons- The bill would require the Board of Cosmetology Examiners to adopt rules for the regulation of mobile salons. There would be administrative costs to process additional licenses for mobile salons. The number of mobile salons that may apply for licensure under this provision is unknown.

(Revised) *Interstate Nurse Licensure Compact-* The Director or designee of the Professional Licensing Agency (PLA) would be the state's nurse licensure compact administrator. The administrator would be required to provide data sets of investigations, identifying information, licensure data, and some alternative program participation information to other member states. The state may experience additional expenditures related to the investigation and adjudication of complaints against out-of-state nurses practicing in Indiana as well as Indiana nurses practicing in other states.

Background Nurses' Compact: The former nurses' compact statute (P.L. 181-2002) expired July 1, 2006.

(Revised) *Marriage and Family Therapists Clinical Experience-* This provision should have a minimal impact on state expenditures. The Professional Licensing Agency may need to update certain information documents that list the clinical experience requirements for marriage and family therapist licensure.

(Revised) *Marriage and Family Therapist Associate License-* The Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board would need to establish fees and other regulations by rule with respect to associate licenses. The Board would be able to adopt new rules within their current meeting schedule. The Board is scheduled to meet 11 times during 2007.

Background PLA: As of October 2006, the PLA had 92 full-time employees. The PLA reverted \$63,329 back to the state General Fund at the close of FY 2006.

Explanation of State Revenues: *Duplicate Fees-* A fee increase for duplicate wall licenses, certifications, and registrations to \$25 would present a minimal increase in revenue to the PLA. Duplicate wall license fees for certain professions are already \$25.

Mobile Salons- Licensing of mobile salons would increase fee revenue by an indeterminable amount. The additional revenue would depend on the fees set by the State Board of Cosmetology Examiners. As of December 2006, there were 8,378 cosmetology, 914 manicuring, and 14 electrology salons licensed. The current fee to license a salon with the Board of Cosmetology Examiners is \$40.

Tanning Facilities- The number of licensees that may be eligible for reinstatement is unknown. There were 1,333 tanning facilities with active licenses as of December 2006. The current reinstatement fee for cosmetologists is \$50.

Speech-Language Pathology Licensing-

PLA License- This bill would allow persons applying for licensure that hold a license in speech and hearing therapy issued by the Division of Professional Standards (DPS) within the Department of Education, have a masters degree in speech-language pathology, and have been employed as a speech-language pathologist for at least nine months in the last five years to be issued a speech-language pathology license by the PLA. Additionally, persons holding a life license with the DPS, has been employed as a speech-language pathologist for at least nine months in the last five years, and takes 36 hours of approved continuing education would also be issued a license.

The potential number of persons that could be eligible for licensure under this provision is unknown. However, the DPS reports there were 17 speech and hearing therapy, 65 communication disorder, and 118 speech-language hearing clinician licenses issued by the DPS during CY 2006. It is unknown how many of these persons are licensed by the PLA.

The current fee for an initial speech-language pathology license via the PLA is \$150. As of December 2006, there were 1,826 active licensed speech-language pathologists with the PLA.

Division of Professional Standards License- The bill would allow the Division of Professional Standards (DPS) within the Department of Education to issue a *non-renewable* initial license as a speech-language pathologist to persons in a clinical fellowship in speech-language pathology. The bill specifies that the license would expire on the earlier of the date the person is licensed by the PLA as a speech-language pathologist or 18 months after the person begins their clinical fellowship. The current fee for the DPS license is \$35. As listed above, there were 118 speech-language hearing clinician licenses issued by the DPS during CY 2006.

(Revised) *Interstate Nurse Licensure Compact-* Under the compact, nurses (RN's and LPN's) that reside in a compact state and work in Indiana that currently hold an Indiana nursing license would no longer have to hold an Indiana nursing license to practice in Indiana (as long as they hold a valid license from their state of residence). As a result, the Indiana Board of Nursing would no longer collect biennial licensing fees from nurses that meet the above condition. Were Indiana to join the compact, state General Fund nursing license renewal fee revenue would be reduced. Based on the current number of Indiana licensed nurses living in a current compact state (4,491 license holders in 21 compact member states), the estimated revenue loss from lost renewal fees is \$197,000 in FY 2008 and \$27,500 in FY 2009. The estimates assume that all 4,491 license holders would not renew their Indiana nurse license.

It is possible that some of the estimated loss could be recovered by fees collected from nurses working in other compact states that have legal residence in Indiana. However, the number of nurses living in Indiana but working out-of-state that hold an Indiana license was unknown at the time this impact statement was prepared. There are about 3,400 nurses that live in Indiana but work in Kentucky. However, it is unknown how many of these persons have an Indiana nursing license currently.

(Revised) *Impaired Nurses Account-* The Impaired Nurses Account (INA) would receive the lesser of 25% of license fees *or* the cost per license to run the impaired nurses program. (Under current law, the INA receives the lesser of 16% of license fees *or* the cost per license to run the impaired nurses program.) The 9% increase in share of license fees for the INA, as proposed by the bill, would be used to meet estimated contract costs to run the program into FY 2009. (The PLA projects that the impaired nurses program will begin to run deficits in FY 2009, at the current level of funding.) As a result of this provision, the state General Fund would receive less revenue, under existing fees.

Penalty Provision- Persons violating the nurses compact would commit a Class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

Background Impaired Nurses Account: The current impaired nurses program contract costs \$840,000 per biennium or \$420,000 per year. The PLA projects that the deficit in FY 2009 will be approximately \$73,600. Revenues that the INA received during the biennium FY 2005-FY2006 totaled \$811,845. As of

December 2006, there were 24,709 licensed practical nurses and 79,368 registered nurses.

(Revised) *Marriage and Family Therapists Clinical Experience*- It is possible, that the reduction from three years to two years of clinical experience could increase the number of first-time applicants for marriage and family therapist licensure. Given the total number of licensed MFTs as of December 2006 was 952, it is likely the number of additional applicants would be small. The current application fee for MFTs is \$50 and is deposited into the state General Fund.

(Revised) *Marriage and Family Therapist Associate License*- The Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board would establish fees for the associate license. Under the current law, professional licensing fees may not be lower than the costs, both direct and indirect, to operate the regulating professional board.

Semiprofessional Elimination Contests- Under current law, persons conducting semiprofessional elimination contests without a license commit a Class B misdemeanor. The elimination of this provision could reduce revenues from fines and fees to the Common School Fund and the state General Fund. However, the reduction would likely be small. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Semiprofessional Elimination Contests*- Local authorities could receive less revenue from court filing fees if fewer persons are charged with Class B misdemeanors. Any revenue loss would be minimal.

State Agencies Affected: Professional Licensing Agency, Attorney General. Department of Correction.

Local Agencies Affected: Trial courts, Local law enforcement agencies.

Information Sources: Wade Lowhorn, Barbara McNutt, & Kristin Kelley, Professional Licensing Agency; Dr. Robert Dalton, Department of Education; Indiana Sheriffs' Association, Department of Correction.

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